

1 SENATE BILL 141

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016**

3 INTRODUCED BY

4 Howie C. Morales and Dennis J. Roch

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6  
7 FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE  
8 AND THE LEGISLATIVE FINANCE COMMITTEE  
9

10 AN ACT

11 RELATING TO PUBLIC EDUCATION; AMENDING THE PUBLIC SCHOOL  
12 FUNDING FORMULA TO ESTABLISH A TEACHER COST INDEX FOR FISCAL  
13 YEARS 2018 THROUGH 2023 AND TO REQUIRE A STUDY AND ANALYSIS OF  
14 THE TEACHER COST INDEX'S SUFFICIENCY, TO PHASE IN A FIVE-YEAR  
15 REDUCTION IN THE CALCULATION OF SMALL-SCHOOL SIZE ADJUSTMENT  
16 PROGRAM UNITS FOR CERTAIN CHARTER SCHOOLS AND TO MAKE A FIVE-  
17 YEAR, PHASED-IN ADJUSTMENT TO THE AT-RISK INDEX; MAKING AN  
18 APPROPRIATION.  
19

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

21 SECTION 1. Section 22-8-6.1 NMSA 1978 (being Laws 1993,  
22 Chapter 227, Section 8, as amended) is amended to read:

23 "22-8-6.1. CHARTER SCHOOL BUDGETS.--

24 A. Each state-chartered charter school shall submit  
25 to the charter schools division of the department a school-

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1 based budget. For the first year of operation, the budget of  
2 every state-chartered charter school shall be based on the  
3 projected number of program units generated by that charter  
4 school and its students, using the at-risk index, ~~[and]~~ the  
5 instructional staff training and experience index and the  
6 teacher cost index of the school district in which it is  
7 geographically located. For the second and subsequent fiscal  
8 years of operation, the budgets of state-chartered charter  
9 schools shall be based on the number of program units generated  
10 using the average of the MEM on the second and third reporting  
11 dates of the prior year, ~~[and its own]~~ their instructional  
12 staff training and experience index, their teacher cost index  
13 and the at-risk index of the school district in which the  
14 state-chartered charter school is geographically located. The  
15 budget shall be submitted to the division for approval or  
16 amendment pursuant to the Public School Finance Act and the  
17 Charter Schools Act. ~~[Thereafter]~~ After the state-chartered  
18 charter school's first year of operation, the budget shall be  
19 submitted to the public education commission for review.

20 B. Each locally chartered charter school shall  
21 submit to the local school board a school-based budget. For  
22 the first year of operation, the budget of every locally  
23 chartered charter school shall be based on the projected number  
24 of program units generated by the charter school and its  
25 students, using the at-risk index, ~~[and]~~ the instructional

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1 staff training and experience index and the teacher cost index  
2 of the school district in which it is geographically located.  
3 For the second and subsequent fiscal years of operation, the  
4 budgets of locally chartered charter schools shall be based on  
5 the number of program units generated using the average of the  
6 MEM on the second and third reporting dates of the prior year,  
7 and ~~[its own]~~ their respective instructional staff training and  
8 experience index, their respective teacher cost index and the  
9 at-risk index of the school district in which the locally  
10 chartered charter school is geographically located. The budget  
11 shall be submitted to the local school board for approval or  
12 amendment. The approval or amendment authority of the local  
13 school board relative to the charter school budget is limited  
14 to ensuring that sound fiscal practices are followed in the  
15 development of the budget and that the charter school budget is  
16 within the allotted resources. The local school board shall  
17 have no veto authority over individual line items within the  
18 charter school's proposed budget, but shall approve or  
19 disapprove the budget in its entirety. Upon final approval of  
20 the local budget by the local school board, the individual  
21 charter school budget shall be included separately in the  
22 budget submission to the department required pursuant to the  
23 Public School Finance Act and the Charter Schools Act.

24 ~~[G. For the first year of operation after a locally~~  
25 ~~chartered charter school converts to a state-chartered charter~~

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1 ~~school or a state-chartered charter school converts to a~~  
2 ~~locally chartered charter school, the charter school's budget~~  
3 ~~shall be based on the number of program units generated using~~  
4 ~~the average of the MEM on the second and third reporting dates~~  
5 ~~of the prior year and the instructional staff training and~~  
6 ~~experience index and the at-risk index of the school district~~  
7 ~~in which it is geographically located. For second and~~  
8 ~~subsequent fiscal years of operation, the charter school shall~~  
9 ~~follow the provisions of Subsection A or B of this section, as~~  
10 ~~applicable.]"~~

11 SECTION 2. Section 22-8-18 NMSA 1978 (being Laws 1974,  
12 Chapter 8, Section 8, as amended) is amended to read:

13 "22-8-18. PROGRAM COST CALCULATION--LOCAL  
14 RESPONSIBILITY.--

15 A. The total program units for the purpose of  
16 computing the program cost shall be calculated by multiplying  
17 the sum of the program units itemized as Paragraphs (1)  
18 [~~through (6)~~] and (2) in this subsection by the [~~instructional~~  
19 ~~staff training and experience index~~] staffing cost multiplier  
20 and adding the program units itemized as Paragraphs [~~(7)~~] (3)  
21 through (14) in this subsection. The itemized program units  
22 are as follows:

- 23 (1) early childhood education;
- 24 (2) basic education;
- 25 (3) special education, adjusted by subtracting

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1 the units derived from membership in class D special education  
2 programs in private, nonsectarian, nonprofit training centers;

3 (4) bilingual multicultural education;

4 (5) fine arts education;

5 (6) elementary physical education;

6 (7) size adjustment;

7 (8) at-risk program;

8 (9) enrollment growth or new district  
9 adjustment;

10 (10) special education units derived from  
11 membership in class D special education programs in private,  
12 nonsectarian, nonprofit training centers;

13 (11) national board for professional teaching  
14 standards certification;

15 (12) home school student program unit;

16 (13) home school student activities; and

17 (14) charter school student activities.

18 B. The total program cost calculated as prescribed  
19 in Subsection A of this section includes the cost of early  
20 childhood, special, bilingual multicultural, fine arts and  
21 vocational education and other remedial or enrichment programs.  
22 It is the responsibility of the local school board or, for a  
23 charter school, the governing body of the charter school to  
24 determine its priorities in terms of the needs of the community  
25 served by that board. Except as otherwise provided in this

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1 section, funds generated under the Public School Finance Act  
2 are discretionary to local school boards and governing bodies  
3 of charter schools; provided that the special program needs as  
4 enumerated in this section are met; and provided further that  
5 if a public school has been rated D or F for two consecutive  
6 years, the department shall ensure that the local school board  
7 or, for a charter school, the governing body of the charter  
8 school is prioritizing resources for the public school toward  
9 proven programs and methods linked to improved student  
10 achievement until the public school earns a C or better for two  
11 consecutive years.

12 C. For purposes of this section, a staffing cost  
13 multiplier shall be equal to the following:

14 (1) for fiscal year 2017, the instructional  
15 staff training and experience index;

16 (2) for fiscal year 2018, the weighted average  
17 of the instructional staff training and experience index at  
18 seventy-five percent and the teacher cost index at twenty-five  
19 percent;

20 (3) for fiscal year 2019, the weighted average  
21 of the instructional staff training and experience index at  
22 fifty percent and the teacher cost index at fifty percent;

23 (4) for fiscal year 2020, the weighted average  
24 of the instructional staff training and experience index at  
25 twenty-five percent and the teacher cost index at seventy-five

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1 percent; and  
2 (5) for fiscal year 2021 and for all  
3 subsequent fiscal years, the teacher cost index."

4 SECTION 3. Section 22-8-23 NMSA 1978 (being Laws 1975,  
5 Chapter 119, Section 1, as amended) is amended to read:

6 "22-8-23. SIZE ADJUSTMENT PROGRAM UNITS--SCHOOL  
7 DISTRICTS--CERTAIN CHARTER SCHOOLS.--

8 A. A school district with an approved public school  
9 with a MEM of less than 400, including early childhood  
10 education full-time-equivalent MEM but excluding membership in  
11 class C and class D programs and excluding full-time-equivalent  
12 membership in three- and four-year-old developmentally disabled  
13 programs, is eligible for additional program units. Separate  
14 schools established to provide special programs, including [~~but~~  
15 ~~not limited to~~] vocational and alternative education, shall not  
16 be classified as public schools for purposes of generating size  
17 adjustment program units. The number of additional program  
18 units to which a school district is entitled under this  
19 subsection is the sum of elementary-junior high units and  
20 senior high units computed in the following manner:

$$\begin{array}{r} \text{Elementary-Junior High Units} \\ 200 - \text{MEM} \\ \hline 200 \end{array} \times 1.0 \times \text{MEM} = \text{Units}$$

25 where MEM is equal to the membership of an approved elementary  
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1 or junior high school, including early childhood education  
2 full-time-equivalent membership but excluding membership in  
3 class C and class D programs and excluding full-time-equivalent  
4 membership in three- and four-year-old developmentally disabled  
5 programs;

6 Senior High Units  
7 200 - MEM  
8 \_\_\_\_\_ x 2.0 x MEM = Units  
9 200

10 or

11 Senior High Units  
12 400 - MEM  
13 \_\_\_\_\_ x 1.6 x MEM = Units  
14 400

15 whichever calculation for senior high units is higher, where  
16 MEM is equal to the membership of an approved senior high  
17 school excluding membership in class C and class D programs.

18 B. An approved charter school with a MEM of less  
19 than 400, including early childhood education full-time-  
20 equivalent MEM but excluding membership in class C and class D  
21 programs and excluding full-time-equivalent membership in  
22 three- and four-year-old developmentally disabled programs, is  
23 eligible for additional program units. The number of  
24 additional program units to which a charter school is entitled  
25 under this subsection is the sum of elementary-junior high

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1 units and senior high units computed in the following manner:

2 (1) Elementary-Junior High Units

3 200 - MEM  
4                    x 1.0 x MEM = Units  
5 200

6 where MEM is equal to the membership of an approved elementary  
7 or junior high school, including early childhood education  
8 full-time-equivalent membership but excluding membership in  
9 class C and class D programs and excluding full-time-equivalent  
10 membership in three- and four-year-old developmentally disabled  
11 programs; and

12 (2) Senior High Units

13 200 - MEM  
14                    x 2.0 x MEM = Units  
15 200

16 or

17 Senior High Units  
18 400 - MEM  
19                    x 1.6 x MEM = Units  
20 400

21 whichever calculation for senior high units is higher, where  
22 MEM is equal to the membership of an approved senior high  
23 school excluding membership in class C and class D programs.

24 C. The following percentages shall be used in  
25 computing additional program units pursuant to Subsection B of

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1 this section:

2 (1) for a charter school in its first year of  
3 operation, one hundred percent; and

4 (2) for a charter school in its second and  
5 subsequent years of operation:

6 (a) for fiscal year 2017, ninety  
7 percent;

8 (b) for fiscal year 2018, eighty  
9 percent;

10 (c) for fiscal year 2019, seventy  
11 percent;

12 (d) for fiscal year 2020, sixty percent;

13 and

14 (e) for fiscal year 2021 and subsequent  
15 fiscal years, fifty percent.

16 ~~[B-]~~ D. A school district with total MEM of less  
17 than 4,000, including early childhood education full-time-  
18 equivalent MEM, is eligible for additional program units. The  
19 number of additional program units to which a school district  
20 is entitled under this subsection is the number of district  
21 units computed in the following manner:

22 District Units  
23 4,000 - MEM  
24 \_\_\_\_\_ x 0.15 x MEM = Units  
25 4,000

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1 where MEM is equal to the total district membership,  
2 including early childhood education full-time-equivalent  
3 membership.

4 ~~[G-]~~ E. A school district with over 10,000 MEM with  
5 a ratio of MEM to senior high schools less than 4,000:1 is  
6 eligible for additional program units based on the number of  
7 approved regular senior high schools that are not eligible for  
8 senior high units under Subsection A of this section. The  
9 number of additional program units to which an eligible school  
10 district is entitled under this subsection is the number of  
11 units computed in the following manner:

$$\begin{array}{r} 4,000 - \text{MEM} \\ \hline \quad \quad \quad \times 0.50 = \text{Units} \\ \text{Senior High Schools} \end{array}$$

15 where MEM is equal to the total district membership, including  
16 early childhood education full-time-equivalent membership, and  
17 where senior high schools are equal to the number of approved  
18 regular senior high schools in the school district.

19 ~~[D-]~~ F. A school district, as defined in Subsection  
20 R of Section 22-1-2 NMSA 1978, with a MEM of less than 200,  
21 including early childhood education full-time-equivalent MEM,  
22 is eligible for additional program units, provided that the  
23 department certifies that the school district has implemented  
24 practices to reduce scale inefficiencies, including shared  
25 service agreements with regional education cooperatives or

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1 other school districts for noninstructional functions and  
2 distance education. The number of additional program units to  
3 which a school district is entitled under this subsection is  
4 the number of units computed in the following manner:

$$200 - \text{MEM} = \text{Units}$$

5  
6 where MEM is equal to the total district MEM, including early  
7 childhood education full-time-equivalent MEM."

8 **SECTION 4.** Section 22-8-23.3 NMSA 1978 (being Laws 1997,  
9 Chapter 40, Section 7, as amended) is amended to read:

10 "22-8-23.3. AT-RISK PROGRAM UNITS.--

11 A. A school district is eligible for additional  
12 program units if it establishes within its department-approved  
13 educational plan identified services to assist students to  
14 reach their full academic potential. A school district  
15 receiving additional at-risk program units shall include a  
16 report of specified services implemented to improve the  
17 academic success of at-risk students. The report shall  
18 identify the ways in which the school district and individual  
19 schools use funding generated through the at-risk index and the  
20 intended outcomes. For purposes of this section, "at-risk  
21 student" means a student who meets the criteria to be included  
22 in the calculation of the three-year average total rate in  
23 Subsection B of this section. The number of additional units  
24 to which a school district is entitled under this section is  
25 computed in the following manner:

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At-Risk Index x MEM = Units

where MEM is equal to the total district membership, including early childhood education, full-time-equivalent membership and special education membership and where the at-risk index is calculated in the following manner:

(1) for fiscal year 2017,

Three-Year Average Total Rate x ~~[0.106]~~ 0.112 = At-Risk Index;

(2) for fiscal year 2018,

Three-Year Average Total Rate x 0.121 = At-Risk Index;

(3) for fiscal year 2019,

Three-Year Average Total Rate x 0.131 = At-Risk Index;

(4) for fiscal year 2020,

Three-Year Average Total Rate x 0.140 = At-Risk Index; and

(5) for fiscal year 2021 and for all

subsequent fiscal years,

Three-Year Average Total Rate x 0.150 = At-Risk Index.

B. To calculate the three-year average total rate, the department shall compute a three-year average of the school district's percentage of membership used to determine its Title I allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the federal office of civil rights and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year

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1 average total rate.

2 C. The department shall recalculate the at-risk  
3 index for each school district every year."

4 SECTION 5. A new section of the Public School Finance Act  
5 is enacted to read:

6 "[NEW MATERIAL] TEACHER COST INDEX--DEFINITIONS--FACTORS--  
7 CALCULATIONS.--

8 A. Beginning in fiscal year 2018, for purposes of  
9 calculating the teacher cost index, the following definitions  
10 shall apply:

11 (1) "number of teaching staff" means the  
12 actual number of full-time-equivalent teaching staff on the  
13 October payroll beginning with October 2017 and in each October  
14 thereafter;

15 (2) "teaching licensure level" is that level  
16 described in the School Personnel Act;

17 (3) "teaching staff" means a licensed teacher  
18 who is assigned classroom teaching responsibilities; and

19 (4) "years of experience" means the number of  
20 years of experience as determined by department rule.

21 B. The factors for each classification of licensure  
22 level by years of experience are provided in the following  
23 table:

24 Classroom Teacher Licensure Levels

25 Years of Experience

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1		0 to 2	3 to 5	6 to 8	9 to 15	over 15
2	Level 1	0.755	0.785	0.800		
3	Level 2		0.994	1.023	1.050	1.123
4	Level 3			1.184	1.208	1.277.

5 C. The teacher cost index for each school district  
6 or charter school shall be calculated in accordance with  
7 instructions issued by the department. The following  
8 calculations shall be computed:

9 (1) multiply the number of full-time-  
10 equivalent teaching staff in each licensure level by the  
11 numerical factor in the appropriate years of experience column  
12 in Subsection B of this section;

13 (2) add the products calculated in Paragraph  
14 (1) of this subsection; and

15 (3) divide the total obtained in Paragraph (2)  
16 of this subsection by the total number of full-time-equivalent  
17 teaching staff.

18 D. No school district's or charter school's factor  
19 shall be less than 1.0.

20 E. In the event that a new school district is  
21 created, the teacher cost index shall be 1.0 for the first year  
22 of operations.

23 F. The department, the legislative education study  
24 committee and the legislative finance committee shall jointly  
25 gather data, conduct an analysis and submit a report by

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1 November 1 of each year to the governor, the legislative  
2 education study committee and the legislative finance  
3 committee. The report shall provide the following:

4 (1) alignment of the weights in the matrix and  
5 their relationship to actual cost differences;

6 (2) an analysis of data on relationships among  
7 teacher licensure level, educational attainment, years of  
8 experience and salary; and

9 (3) any recommended changes to the teacher  
10 cost index and to this section of the Public School Finance  
11 Act."

12 SECTION 6. Section 22-8-25 NMSA 1978 (being Laws 1981,  
13 Chapter 176, Section 5, as amended) is amended to read:

14 "22-8-25. STATE EQUALIZATION GUARANTEE DISTRIBUTION--  
15 DEFINITIONS--DETERMINATION OF AMOUNT.--

16 A. The state equalization guarantee distribution  
17 is that amount of money distributed to each school district to  
18 ensure that its operating revenue, including its local and  
19 federal revenues as defined in this section, is at least equal  
20 to the school district's program cost. For state-chartered  
21 charter schools, the state equalization guarantee distribution  
22 is the difference between the state-chartered charter school's  
23 program cost and the two percent withheld by the department for  
24 administrative services.

25 B. "Local revenue", as used in this section, means

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1 seventy-five percent of receipts to the school district derived  
2 from that amount produced by a school district property tax  
3 applied at the rate of fifty cents (\$.50) to each one thousand  
4 dollars (\$1,000) of net taxable value of property allocated to  
5 the school district and to the assessed value of products  
6 severed and sold in the school district as determined under the  
7 Oil and Gas Ad Valorem Production Tax Act and upon the assessed  
8 value of equipment in the school district as determined under  
9 the Oil and Gas Production Equipment Ad Valorem Tax Act.

10 C. "Federal revenue", as used in this section,  
11 means receipts to the school district, excluding amounts that,  
12 if taken into account in the computation of the state  
13 equalization guarantee distribution, result, under federal law  
14 or regulations, in a reduction in or elimination of federal  
15 school funding otherwise receivable by the school district,  
16 derived from the following:

17 (1) seventy-five percent of the school  
18 district's share of forest reserve funds distributed in  
19 accordance with Section 22-8-33 NMSA 1978; and

20 (2) seventy-five percent of grants from the  
21 federal government as assistance to those areas affected by  
22 federal activity authorized in accordance with Title 20 of the  
23 United States Code, commonly known as "PL 874 funds" or "impact  
24 aid".

25 D. To determine the amount of the state

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1 equalization guarantee distribution, the department shall:

2 (1) calculate the number of program units to  
3 which each school district or charter school is entitled using  
4 an average of the MEM on the second and third reporting dates  
5 of the prior year; or

6 (2) calculate the number of program units to  
7 which a school district or charter school operating under an  
8 approved year-round school calendar is entitled using an  
9 average of the MEM on appropriate dates established by the  
10 department; or

11 (3) calculate the number of program units to  
12 which a school district or charter school with a MEM of two  
13 hundred or less is entitled by using an average of the MEM on  
14 the second and third reporting dates of the prior year or the  
15 fortieth day of the current year, whichever is greater; and

16 (4) using the results of the calculations in  
17 Paragraph (1), (2) or (3) of this subsection and the  
18 instructional staff training and experience index and,  
19 beginning in fiscal year 2018, the teacher cost index from the  
20 October report of the prior school year, establish a total  
21 program cost of the school district or charter school;

22 (5) for school districts, calculate the local  
23 and federal revenues as defined in this section;

24 (6) deduct the sum of the calculations made in  
25 Paragraph (5) of this subsection from the program cost

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1 established in Paragraph (4) of this subsection;

2 (7) deduct the total amount of guaranteed  
3 energy savings contract payments that the department determines  
4 will be made to the school district from the public school  
5 utility conservation fund during the fiscal year for which the  
6 state equalization guarantee distribution is being computed;  
7 and

8 (8) deduct ninety percent of the amount  
9 certified for the school district by the department pursuant to  
10 the Energy Efficiency and Renewable Energy Bonding Act.

11 E. Reduction of a school district's state  
12 equalization guarantee distribution shall cease when the school  
13 district's cumulative reductions equal its proportional share  
14 of the cumulative debt service payments necessary to service  
15 the bonds issued pursuant to the Energy Efficiency and  
16 Renewable Energy Bonding Act.

17 F. The amount of the state equalization guarantee  
18 distribution to which a school district is entitled is the  
19 balance remaining after the deductions made in Paragraphs (6)  
20 through (8) of Subsection D of this section.

21 G. The state equalization guarantee distribution  
22 shall be distributed prior to June 30 of each fiscal year. The  
23 calculation shall be based on the local and federal revenues  
24 specified in this section received from June 1 of the previous  
25 fiscal year through May 31 of the fiscal year for which the

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1 state equalization guarantee distribution is being computed.  
2 In the event that a school district or charter school has  
3 received more state equalization guarantee funds than its  
4 entitlement, a refund shall be made by the school district or  
5 charter school to the state general fund."

6 SECTION 7. TEMPORARY PROVISION--PROTECTION FROM PROGRAM  
7 COST REDUCTIONS.--

8 A. Using funds appropriated by the legislature,  
9 the public education department shall implement a program to  
10 maintain school districts' and charter schools' respective  
11 program cost calculations in cases of reductions that result  
12 solely from the implementation of provisions of this act, and:

13 (1) for fiscal year 2017, the department shall  
14 maintain school districts' and charter schools' respective  
15 program cost calculations at one hundred percent of the fiscal  
16 year 2016 program cost calculations that have resulted solely  
17 from the implementation of provisions of this act;

18 (2) for fiscal year 2018, the department shall  
19 maintain school districts' and charter schools' respective  
20 program cost calculations at a minimum of seventy-five percent  
21 of the fiscal year 2017 program cost calculations that have  
22 resulted solely from the implementation of provisions of this  
23 act; and

24 (3) for fiscal year 2019, the department shall  
25 maintain school districts' and charter schools' respective

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1 program cost calculations at a minimum of fifty percent of the  
2 fiscal year 2019 program cost calculations that have resulted  
3 solely from the implementation of provisions of this act.

4 B. The public education department shall provide  
5 the legislative education study committee and the legislative  
6 finance committee with a report on school districts' and  
7 charter schools' respective program cost calculations that have  
8 resulted solely from the implementation of provisions of this  
9 act.

10 SECTION 8. APPROPRIATION.--One million dollars  
11 (\$1,000,000) is appropriated from the general fund to the  
12 public education department for expenditure in fiscal year 2017  
13 to carry out the purposes of Section 7 of this act. Any  
14 unexpended or unencumbered balance remaining at the end of  
15 fiscal year 2017 shall revert to the general fund.

16 SECTION 9. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2016.